



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 056-05

13 W. HALEY STREET

SETBACKS, OPEN YARD AND PARKING MODIFICATIONS

AUGUST 11, 2005

**APPLICATION OF JEFF SHELTON, ARCHITECT, FOR NEIL AND SUE ABLITT,  
PROPERTY OWNERS, 13 WEST HALEY STREET, APN 037-211-004, C-M LIGHT  
MANUFACTURING ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE  
(MST2003-00001)**

The proposed project involves the construction of a 699 square foot four story residence with an attached 259 square foot one car garage and a 134 square foot roof deck on a 400 square foot vacant lot. The project site is located on a private alley, off of West Haley Street. This project was previously approved by the City Council on appeal on April 13, 2004; however, the approval has expired. The project received final approval from the Historic Landmarks Commission on October 27, 2004.

The discretionary applications required for the proposed project are:

1. A Modification to not provide the required ten-foot (10') setback from all interior lot lines (SBMC §28.69.060);
2. A Modification to provide one (1) covered parking space instead of the required two (2) covered parking spaces (SBMC §28.90.100);
3. A Modification to allow parking to be located in the required interior yard setback (off the private alley) (SBMC §28.90.001.8); and,
4. A Modification to not provide the ten percent required open yard area (SBMC §28.21.080.6).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303.

**WHEREAS**, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, 1 person appeared to speak about some concerns in regards to the application; 1 person appeared to speak in favor of the application, and 1 person appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, August 5, 2005.
2. Site Plans
3. Correspondence received regarding the project:
  - a. Kay Morter, 17 West Haley Street
4. Correspondence received in opposition to the project:

- a. Sally Torgeson, no address submitted
- b. Trevor Martinson, 1849 Mission Ridge Road

**NOW, THEREFORE BE IT RESOLVED** that the City Planning Commission:

I. Approved the subject application making the following findings and determinations:

**A. Setback Modifications (SBMC §28.69.060)**

In order for the Planning Commission to approve the requested modification to permit the entire residence and attached garage to be constructed on the property lines instead of observing the ten foot interior yard setbacks, it must be found that the modifications are consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

The interior yard modifications are supportable because the alley will provide a permanent setback from the commercial development to the north, the structure will meet Title 24, California Building Code requirements, and the foreseeable noise impacts would be mitigated to a less than significant level. Given the small size of the lot, the modifications are necessary to develop the project. The Historic Landmarks Commission found the project compatible and appropriate. The property owners also recognize that they are in a commercially zoned area and acknowledge the potential nuisances that come along with downtown living.

**B. Open Space Area Modification (SBMC §28.21.080.6)**

In order for the Planning Commission to approve the requested modification to not provide the ten percent of the lot for required open yard area, it must find that the modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

The proposed project would provide 134 square feet of private outdoor space on the roof deck, which is greater than the combined requirement for open yard and private outdoor space. Although the square footage in addition to the 72 square feet required for private outdoor space does not meet the open yard area requirements, the intent of the Zoning Ordinance for adequate outdoor space is being met.

**C. Parking Modification (SBMC §28.90.100)**

In order for the Planning Commission to approve the requested modification to allow one covered parking space instead of two covered parking spaces, it must find that the modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

The modification request is supportable because the parking demand for one residential unit in the Central Business District is one space. Additionally, the parking demand for a

one-bedroom residential unit that is 750 square feet or less in size would be met with one parking space. The proposed parking modification would be consistent with the purposes and intent of the Zoning Ordinance and would not cause an increase in the demand for parking space in the immediate area.

II. Said approval is subject to the following conditions:

- A. **Recorded Agreements.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the following conditions shall be imposed on the use, possession and enjoyment of the Real Property and shall be recorded by the Owner in a written instrument which shall be reviewed as to form and content by the City Attorney:
1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any drainage facilities and for the continued maintenance thereof in a manner which will preclude any hazard of life, health or damage to the Real Property or any adjoining property.
  2. **Allowed Development.** The development of the Real Property approved by the Planning Commission on August 11, 2005, is limited to a single family residence, and the improvements shown on the site, elevation and floor plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
  3. **Surrounding Development.** Owner acknowledges that development may occur up to the property line within the C-2 Zone and that it may block or disrupt any view that is currently or in the future enjoyed by the Owner.
- B. **Historic Landmarks Commission (HLC).** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):
1. Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance. No floodlights shall be allowed. Lighting shall be directed toward the ground.
  2. Four foot high sound attenuation balcony barrier along the perimeter of the roof deck per the Acoustical Analysis Report by Dudek and Associates on November 5, 2003. The materials used in the construction of the barriers are required to have a minimum surface density of 3.5 pounds per square foot, which may consist of masonry material, Plexiglas, tempered glass or a combination of these materials.
  3. Per the Acoustical Analysis Report by Dudek and Associates on November 5, 2003, an air-conditioning and/or mechanical ventilation system shall be installed to mitigate the interior noise levels below 45 dB DNL.

- C. **Required Prior to Public Works or Building Permit Issuance.** The Owner shall submit the following or evidence of completion of the following to the Public Works Department prior to the issuance of a Building permit or Public Works permit.
1. **Improvements along the Public Right-of-Way and Private Alley.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Haley Street and the Private Alley serving the parcel. As determined by the Public Works Department, the improvements shall include City standard sidewalk, City Standard Type II driveway apron modified to meet Title 24 requirements, asphalt paving and reconstruction of full width of the private alley from Haley Street to project site, maintaining access during paving, curb drain outlet(s), an approved traffic control and staging area plan, preserve and/or reset contractor stamp and/or survey monuments, drought-tolerant parkway landscaping, and provide adequate positive drainage from site. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.
  2. **Hydrology Calculations.** Submit to the Land Development Engineer drainage calculations justifying that the onsite proposed and existing drainage conveyance system adequately convey a 25-year storm event.
- D. **Required Prior to Building Permit Issuance.** The following requirements shall be incorporated into, or submitted with the construction plans submitted to the Building & Safety Division with applications for building permits. All of these construction requirements must be completed prior to the issuance of a Certificate of Occupancy:
1. The following information shall be specified on the construction plans submitted for building permits:
    - (a) **Construction Contact Signage.** Signage shall be posted at the points of entry to the site that list the contractor(s) name and phone number, work hours, and site rules to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval and inform subcontractors of site rules and restrictions.
    - (b) **Construction Hours.** Construction (including the preparation for construction work) is prohibited Monday through Friday between the before 8:00 a.m. and after 5:00 p.m., Saturdays, Sundays, and holidays observed by the City as legal holidays as shown below:

New Year's Day .....	January 1 <sup>st</sup>
Martin Luther King Jr.'s Birthday .....	3 <sup>rd</sup> Monday in January
President's Day .....	3 <sup>rd</sup> Monday in February
Memorial Day .....	Last Monday in May
Independence Day .....	July 4 <sup>th</sup>
Labor Day .....	1 <sup>st</sup> Monday in September
Thanksgiving Day .....	4 <sup>th</sup> Thursday in November
Following Thanksgiving Day .....	Friday after Thanksgiving Day

Christmas Day ..... December 25<sup>th</sup>

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday respectively shall be observed as a legal holiday.

- (c) **Construction-related truck trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic on adjacent streets and roadways.
- (d) **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
- (e) **Construction Parking.** Construction parking provided as follows:
  - (1) During construction, free parking spaces for construction workers shall be provided ~~on-site or~~ off-site in a location subject to the approval of the Streets, Parking, and Transportation Operations Manager.
  - (2) On-site or off-site storage shall be provided for construction materials and equipment.
- (f) **Construction Storage.** Storage of construction materials within the public right-of-way is prohibited.
- (g) **Construction Dust Control.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.

Sweep daily the frontage of the property and adjacent properties along alley way and Haley Street, parking areas, and staging areas at the construction site to decrease sediment transport to the public storm drain system and dust.

- (h) **Construction Debris Control.** The Contractor shall be responsible for keeping adjoining properties free of construction debris and cooperate

with adjoining owners and tenants as necessary to implement this condition.

- (i) **Unanticipated Archaeological Resources.** Prior to the issuance of a demolition permit, the Owner shall contract with an archaeologist from the most current City Qualified Archaeologists List for completion of a Phase I after removal of existing structures and prior to commencement of grading or construction activities.

A reinspection of the site by a qualified archaeologist shall be required when existing pavement and/or foundations are removed. Results of this resurvey and recommendations shall be submitted (in the form of an addendum to the Phase 1 Archaeological Survey) to the City of Santa Barbara Planning Division. If substantial new information is found, then the addendum will need to be approved by HLC. In the event that resurvey confirms that the project area is devoid of archaeological remains, no further work in the parcel shall be required.

In the event that an archaeological site or artifacts are encountered during the resurvey, all work in the immediate area of the find shall be halted, the remains recorded in the field by a qualified archaeologist, and procedures set forth in the Cultural Resources sections of the Master Environmental Assessment (MEA) be imposed to evaluate the importance of those resources. These procedures may include a Phase 2 site evaluations and subsurface testing program and mitigation as necessary to ensure no significant impacts result.

In the event that prehistoric remains are encountered, a qualified Native American representative should be contacted to monitor all further site disturbances in the vicinity of the remains and remain present during any additional subsurface site evaluation. In the event human remains are encountered, the Coroner and Native American Heritage shall be contacted immediately and procedures followed per Public Resources Code 5097.98.

- (j) **Demolition/Construction Materials Recycling.** The applicant shall, to the maximum extent feasible, reduce, recycle and/or re-use all construction/demolition waste and materials in order to minimize construction-generated waste conveyed to the landfill, and containers shall be provided on site for that purpose.
- (k) **Storm Water Quality Control.** The Owner shall apply storm water quality control guidelines to the project per the Public Works Department Construction Project Best Management Practices.
- (l) **Planning Commission Conditions and Signatures.** All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be

placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____ Property Owner	_____ Date	
_____ Contractor	_____ Date	_____ License No.
_____ Architect	_____ Date	_____ License No.
_____ Engineer	_____ Date	_____ License No.

- E. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots are to be pruned under the direction of the City Arborist.
  2. **Complete Required Public Improvements.** Public improvements as shown on the building plans.
  3. **Cross Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
  4. **Archaeological Report.** A reinspection of the site by a qualified archaeologist shall be required when existing pavement and/or foundations are removed. Results of this resurvey and recommendations shall be submitted (in the form of an addendum to the Phase 1 Archaeological Survey) to the City of Santa Barbara Planning Division. If substantial new information is found, then the addendum will need to be approved by HLC. In the event that resurvey confirms that the project area is devoid of archaeological remains, no further work in the parcel shall be required.
- F. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's

denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

**NOTICE OF APPROVAL TIME LIMITS:**


The Planning Commission's action approving the Modifications shall terminate one (1) year from the date of the approval, per SBMC 28.87.360 if:

1. A building permit for the use authorized by the approval is not sought within twelve months of the approval unless an extension is granted by the Planning Commission and the construction authorized by the permit is diligently pursued to completion and issuance of a Certificate of Occupancy; or
2. The use authorized by the approval is discontinued, abandoned or unused for a period of six (6) months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) one (1) year from granting the approval.

This motion was passed and adopted on the 11th day of August, 2005 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 1 (White) ABSENT: 1 (Maguire)

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.



Deana Rae McMillion, Admin/Clerical Supervisor

11-3-05

Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.